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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/601,029	07/26/2000	PETER HIMMELSBACH	BEIERSDORF-6	5165
7055 7590 10/01/2007 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191				
EXAMINER				
PIZIALI, ANDREW T				
ART UNIT		PAPER NUMBER		
1771				
NOTIFICATION DATE		DELIVERY MODE		
10/01/2007		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com

pto@gbpatent.com

Notice of Abandonment**Application No.**

09/601,029

Applicant(s)

HIMMELSBACH ET AL.

Examiner

Andrew T. Piziali

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on ____.
- (a) ☐ A reply was received on ____ (with a Certificate of Mailing or Transmission dated ____), which is after the expiration of the period for reply (including a total extension of time of ____ month(s)) which expired on ____.
- (b) ☐ A proposed reply was received on ____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
- (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
- (c) ☐ A reply was received on ____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
- (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
- (a) ☐ The issue fee and publication fee, if applicable, was received on ____ (with a Certificate of Mailing or Transmission dated ____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
- (b) ☐ The submitted fee of \$____ is insufficient. A balance of \$____ is due.
- The issue fee required by 37 CFR 1.18 is \$____. The publication fee, if required by 37 CFR 1.18(d), is \$____.
- (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
- (a) ☐ Proposed corrected drawings were received on ____ (with a Certificate of Mailing or Transmission dated ____), which is after the expiration of the period for reply.
- (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on ____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

See Continuation Sheet

/Andrew T Piziali/
Primary Examiner, Art Unit 1771

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Item 7 - Other reasons for holding abandonment:

1. According to 37 CFR 41.37 (d): If a brief is filed which does not comply with all the requirements of paragraph (c) of this section, appellant will be notified of the reasons for non-compliance and given a time period within which to file an amended brief. If appellant does not file an amended brief within the set time period, or files an amended brief which does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed.
2. The events of this case occurred as follows:
 - i. On 8/2/2006 this application was made Final.
 - ii. On 10/25/2006 Applicant filed a Notice of appeal.
 - iii. On 12/26/2006 Appellant submitted an appeal brief.
 - iv. On 2/21/2007 the brief of 12/26/2006 was held non-compliant.
 - v. On 3/2/2007 Appellant submitted a second appeal brief.
 - vi. On 6/25/2007 the brief of 3/2/2007 was held non-compliant.
 - vii. On 7/3/2007 Appellant submitted a third appeal brief.
3. The third brief failed to overcome all the reasons for non-compliance stated in the notification mailed on 6/25/2007. Specifically, the appellant was instructed to present an argument under a separate heading for each ground of rejection, but the appeal brief filed on 7/3/2007 failed to present a separate heading for ground of rejection #17 (Whether claims 66 and 96 are properly rejected under obviousness-type double patenting as being unpatentable over claims 1-27 of ALBROD in view of MERKLE and further in view of KANTER).
4. As such, 37 CFR 41.37(d) is invoked and the Appeal is Dismissed.
5. Since no claims stand allowed, the application is considered abandoned as of the date the reply to the notice of appeal was due (MPEP 1215.04).